MONTANA LEGISLATIVE HISTORY

Chapter 50 19 95

Bill H 108 S _____ Original bill & history ___C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Jan 11	✓ C	Hearing Date(s)	Feb 02	✓ C
	Jan 12	✓ C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	Jan 12	✓ C		Feb 02	✓ C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

1/18	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
1/25	HEARING		
1/25	COMMITTEE REPORT—BILL CONCURRED		
1/26	2ND READING CONCURRED	49	0
1/27	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE		
1/30	SIGNED BY SPEAKER		
1/31	SIGNED BY PRESIDENT		
2/01	TRANSMITTED TO GOVERNOR		
2/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 21		
	EFFECTIVE DATE: 10/01/95		

HB 108 INTRODUCED BY COBB

REQUIRE A PERSON CONVICTED OF A DANGEROUS DRUG MISDEMEANOR TO ATTEND A DANGEROUS DRUG INFORMATION COURSE

1/07	INTRODUCED		
1/07	FIRST READING		
1/07	REFERRED TO JUDICIARY		
1/07	FISCAL NOTE REQUESTED		
1/11	HEARING		
1/12	FISCAL NOTE RECEIVED		
1/12	FISCAL NOTE PRINTED		
1/13	COMMITTEE REPORT—BILL PASSED		
1/14	2ND READING PASSED	95	3
1/16	3RD READING PASSED	95	3
	TRANSMITTED TO SENATE		
1/17	FIRST READING		
1/17	REFERRED TO JUDICIARY		
2/02	HEARING		
2/02	COMMITTEE REPORT—BILL CONCURRED		
2/03	2ND READING CONCURRED	49	0
2/04	3RD READING CONCURRED	45	0
	RETURNED TO HOUSE		
2/07	SIGNED BY SPEAKER		
2/07	SIGNED BY PRESIDENT		
2/08	TRANSMITTED TO GOVERNOR		
2/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 50		
	EFFECTIVE DATE: 10/01/95		

HB 109 INTRODUCED BY COBB

PLACE A 3-YEAR MORATORIUM ON APPROVAL OF ADDITIONAL LONG-TERM CARE FACILITY BEDS BY THE CERTIFICATE OF NEED PROCESS

1/07	INTRODUCED
1/07	FIRST READING
1/07	REFERRED TO HUMAN SERVICES & AGING
1/07	FISCAL NOTE REQUESTED
1/13	FISCAL NOTE PRINTED
1/13	HEARING
1/18	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

HB 110 INTRODUCED BY FISHER, ET AL.

REQUIRE THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO PAY FOR OUT-OF-STATE PLACEMENT OF A CHILD WITH DISABILITIES WHEN A

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0108, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
A bill for an act requiring a person convicted of a dangerous drug misdemeanor to attend a dangerous drug information course and also allowing a judge to require chemical dependency treatment in certain cases.

ASSUMPTIONS:
1. The person convicted of an offense under this bill will be responsible for the cost of the dangerous drug information course and the chemical dependency treatment described in the bill.
2. The Department of Corrections and Human Services (DCHS) will not be responsible for the supervision of dangerous drug misdemeanor convictions.

FISCAL IMPACT:
No Fiscal Impact

Dave Lewis 1-11-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN COBB, PRIMARY SPONSOR DATE

Fiscal Note for HB0108, as introduced

HB 108

deteriorated and at that point, they would not transfer him to the prison, but would rather go for guardianship and treatment. Under normal conditions, it would give the authority to transfer to the prison at the point of refusal of treatment and upon release from the prison would be under stricter supervision than upon release from the hospital. In this specific case, this would not be the case, but this is an example of how it would work in most cases.

REP. SOFT asked **Mr. Anderson** if he would be open to working with him on the amendments.

Mr. Anderson said he would.

REP. STORY closed recommending the committee approve the bill.

CHAIRMAN CLARK closed the hearing on HB 84.

{Tape: 1; Side: A; Approx. Counter: 47.4}

HEARING ON HB 108

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, feels that HB 108 basically requires persons who have been convicted of a dangerous drug misdemeanor to attend a dangerous drug information course in the same way that those convicted of DUI must take an information course as well as possible treatment.

Proponents' Testimony:

Darryl Bruno, Administrator, Alcohol and Drug Abuse Division, said that this bill is supported by the Department of Corrections and Human Services, Alcohol and Drug Division as the agency responsible under 53-24-208 MCA for approving facilities eligible to provide the court school. They are also the agency responsible for providing the counselors who would do the assessment evaluation. They also develop the standards for the DUI court school now. They believe the program could easily be merged with the current curriculum with very minimal cost. They believe the court school should be self-supporting like the DUI course is supported now.

Pat Melby, Rimrock Foundation, Billings, spoke in support of this bill. They believe they can offer this course at minimal expense.

Kathy McGowan, Chemical Dependency Programs of Montana, said the organization is comprised of inpatient and outpatient chemically dependent persons. These members were polled and they believe the present programs can be easily adapted to include this program and they do support this bill.

Opponents' Testimony:

None.

{Tape: 1; Side: a; Approx. Counter: 54.5}

Questions From Committee Members and Responses:

REP. BRAD MOLNAR asked if there are enough court schools in the state to accommodate people who live in small or more remote communities.

Mr. Bruno said that there are services available in virtually every county in the state that would accommodate these people.

REP. ANDERSON agreed that this program should be self-funding. He asked if language could be included to alert the court that they may impose this requirement of the defendant. If not, he wanted a fiscal note for what this would cost the state.

REP. COBB read a statement that said there would be no fiscal impact of this bill and that a person convicted of a dangerous drug offense would be responsible for the cost of the informational course. Under the provisions of this bill, the person is liable for their own bill. He also stated that there are 54 treatment centers certified to provide this course.

REP. ELLEN BERGMAN asked if the person shows that they cannot pay, who would pay.

Mr. Bruno said that the DUI court school is self-supporting so most do pay. Those who are not able to pay are billed and it is collected through judgment of the court. If they are indigent, the program absorbs the cost which is passed on to other offenders.

REP. MC CULLOCH asked if there is currently a program for the more remote areas.

REP. COBB said he would provide a list of the 54 facilities.

REP. MC CULLOCH asked if these were close enough to avoid an overnight stay.

Mr. Bruno said the rules require the sessions be held in successive weeks, but they do make exceptions in rural counties where services are difficult to access one-day court schools.

REP. SOFT asked is there is any kind of community work program for those who are unable to pay.

Mr. Bruno said he was not aware of any.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Counter: 61.9}

REP. COBB closed by stating the rule dealing with being declared indigent and have someone else pay for the court school. He believes that this bill will help people who might be deterred from risking the conviction because of influence to avoid the requirement of going once a week to take the courses.

CHAIRMAN CLARK closed the hearing on HB 108.

{Tape: 1; Side: B}

EXECUTIVE ACTION ON HB 71

Motion: **REP. ANDERSON MOVED HB 71 DO PASS.**

Discussion: **REP. MOLNAR** asked that copies of an amendment he requested to be drafted be distributed. **EXHIBIT 3**

Motion: **REP. MOLNAR MOVED FOR ADOPTION OF THE AMENDMENT.**

Discussion: **REP. MOLNAR** stated that this amendment states punitive damages would not be split as in the DeBruycker bill, but rather it would all go to the state. It is his personal opinion that punitive measures turn the court system into a lottery system. They are done for the purpose of financial gain for the attorney. He believes that the person has already lost his case and the victim has already made whole by the court. If punitive damages are also sought, he believes it should be on a pro bono basis.

CHAIRMAN CLARK stated he would have an amendment that would address that later on.

REP. HURDLE stated she thought this amendment would act as a disincentive to this kind of thing.

{Tape: 1; Side: B; Approx. Counter: 5.7}

REP. KOTTEL strongly believes that punitive damages have a role in our society. She could not recall any testimony or evidence that punitive damages have been out of line in Montana. She believes this becomes a 100% tax to the injured party as well as a tax to the attorney in terms of their time. She disagreed with **REP. MOLNAR'S** belief that the victim had already been justly and fully compensated. She asked the committee not to attempt to do a revenue-generating bill for the state with language that will ensure no punitive damages will be awarded in this state.

REP. SOFT wanted to go on record that he supports the amendment 100%.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Judiciary COMMITTEE DATE 1/11/95

BILL NO. HB 108 SPONSOR(S) Rep Cobb

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Pat Melby	Rimrock Foundation	✓	
Kathy McGowan	Chem. Dep. Prog of MT	✓	
Mary McCue	MT Clinical Mental Health Counselors Ass'n		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993
wp:vissbcom.man
CS-14

Vote: Motion to amend by striking section 2 failed by roll call vote. **EXHIBIT 9**

Mr. MacMaster said that amendments are often proposed without a request from the proposer for a corresponding amendment in the title. He asked to amend the title accordingly when necessary without the proposer having to stipulate. The committee agreed to this stipulation.

Motion/Vote: **REP. WYATT MOVED DO PASS AS AMENDED.** The motion carried with **REPS. GRIMES, SOFT AND ANDERSON** voting no.

{Tape: 2; Side: A; Approx. Counter: 12.9}

EXECUTIVE ACTION ON HB 108

Motion: **REP. MC GEE MOVED DO PASS.**

Discussion: **REP. BOHARSKI** asked who would pay for this.

REP. MC GEE said that it is his understanding that this is supported by the fines and there would be no fiscal impact.

REP. BOHARSKI discussed the potential problems with passing this bill with no fiscal note even if this is the case.

REP. CLARK read a response that satisfied the requirement for a fiscal note. **EXHIBIT 10**

REP. HURDLE said that the response given to the question about what will happen when someone cannot pay the bill was that the program itself would absorb the cost.

CHAIRMAN CLARK said that **REP. COBB** had informed him that there were 279 cases last year which would apply under this bill. **EXHIBIT 11**

Vote: The motion passed unanimously by voice vote.

REP. BOHARSKI objected to putting it on consent calendar.

REP. MC GEE MOVED TO ADJOURN.

HOUSE STANDING COMMITTEE REPORT

January 12, 1995

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 108** (first reading copy -- white) **do pass.**

Signed: Bob Clark

Bob Clark, Chair

1-13

Committee Vote:

EXHIBIT 10
DATE 1/12/95
HB 108

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0108, Introduced

DESCRIPTION OF PROPOSED LEGISLATION:
A bill for an act requiring a person convicted of a dangerous drug misdemeanor to attend a dangerous drug information course and also allowing a judge to require chemical dependency treatment in certain cases.

ASSUMPTIONS:
1. The person convicted of an offense under this bill will be responsible for the cost of the dangerous drug information course and the chemical dependency treatment described in the bill.
2. The Department of Corrections and Human Services (DCHS) will not be responsible for the supervision of dangerous drug misdemeanor convictions.

FISCAL IMPACT:
No Fiscal Impact

Expenditures:

Revenues:

Net Impact:

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
N/A

TECHNICAL NOTES:
N/A

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN COBB, PRIMARY SPONSOR DATE
Fiscal Note for HB0108, as introduced

EXHIBIT 11
DATE 1/12/95
HB 108

John Cobb
P.O. Box 388
Augusta, Montana 59410

Dear Judiciary Committee:

On the mandatory education drug misdemeanor bill the number of offenses for misdemeanors for drug offenses for only juveniles was 279 individuals for fiscal year 1994. That means all those individuals would have to take the course if the bill passes.I do not have the information for adults and the person who I was informed who knows will not be back until next week.

know exactly what that means.

Mr. Jovick said that a simple two or three sentence statement of the circumstances such as the death had taken place and that they were the owner of the property described, is contemplated. Sample forms could be compiled in various places.

Closing by Sponsor:

SENATOR GROSFIELD said part of the reason for not including stocks and bonds was that the stockbroker would want some kind of documentation that they have the authority to process it. As far as real property, he thought **SENATOR BARTLETT'S** suggestions would be fine. He had not wanted to sign the fiscal note, which said it had no impact. He thought it might have a minimal impact, but it would certainly save staff time and money. He urged the committee to concur.

HEARING ON HB 108

Opening Statement by Sponsor:

REPRESENTATIVE JOHN COBB, House District 50, Augusta, introduced HB 108, an act requiring a person convicted of a dangerous drug misdemeanor to attend a dangerous drug informational course. The language in Section 1, he said, would be the same language used for DUI's. If a person is caught on a DUI, they have to take a course and the judge can further require a treatment course if he deems it necessary. If the violation is a felony, it would not apply because he said, "you'd have to go away for a while." He estimated 279 juveniles would have to take this course each year. He said that if some of the juveniles were caught earlier in the drug cycle, hopefully some could be turned around. Last year, he quoted, 4,800 DUI cases were charged; 3,500 were first-time offenses; only 1,000 repeated; and only 40 repeated the third time. Since the people pay for the course themselves, he thought it would be a deterrent. He thought that a gap existed between alcohol and drug offenses. Misdemeanor drug charges are smaller charges, under 60 grams of marijuana. If the people were unable to pay, treatment centers charge the others to make up the difference so there is no fiscal impact.

Proponents' Testimony:

Darryl Bruno, Administrator of the Alcohol and Drug Division for the Corrections and Human Services, spoke in support of the bill. He submitted written testimony. **(EXHIBIT 4).** He also believed it to be an early intervention program. The earlier the intervention, he said, the more hope they had to keep people out of the prison system, which would be a major reduction in cost to the people of the State of Montana.

Kathy McGowan appeared on behalf of the Chemical Dependency

Programs of Montana, and said that the organization represented out-patient and some in-patient CD programs across the state. CDPM also supported the bill. She said they should have no trouble whatsoever adapting to a drug information course. On a personal note, she spoke about an acquaintance who had recently gone through the alcohol court school and said it was an intimidating and humiliating experience and said he would definitely not drink and drive again. She thought it would also be true for this particular course.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR NELSON asked if they were talking about two different courses, drug and chemical dependency treatment.

Mr. Bruno answered that there was currently a DUI court school course approved by their office. This would be a course they would incorporate within current curriculum, including drug laws and effects. In answer to a further question about costs, he replied that based on the cost of each school, averaging from $125 to $200, based on providing costs. He said that they generally re-figure their court school costs to cover those not able to pay. He did not know what the percentage of those would be. When the Senator asked about insurance, he said if treatment was recommended, it alone would be covered by those covered by insurance. The others are billed on an ability to pay backed by state and federal support. He said he would try to provide an estimate of those unable to pay.

Closing by Sponsor:

REPRESENTATIVE COBB said he thought the numbers of those unable to pay would be about 15 per cent as an estimate. Hopefully, some kids would be saved from doing drugs, he said, and he hoped for a success rate of up to 20 to 30 percent. The immediate effect is not just getting a misdemeanor and going on probation, but they would have to do this on a weekly basis and would be more of a harassment effect. He hoped to prevent future felonies.

HEARING ON HB 37

Opening Statement by Sponsor:

The sponsor was not present so **SENATOR MIKE HALLIGAN, Senate District 34 of Missoula,** presented the bill to the committee. He said he had actually done the bill draft request on this bill on behalf of the Department of Administration. The reason behind the bill was that in the early days when the statute was passed inmates going to the Montana State Prison were not represented by

Valencia Lane said she thought it was from the onset. The first sentence said that the time is tolled during the period of the disability whether it is minority or mental illness. The second sentence said it would not be tolled more than five years, she said. But, she said, these were not changes in existing law, merely a re-statement.

CHAIRMAN CRIPPEN said they would wait for one day for clarification on this language.

EXECUTIVE ACTION ON SB 272

Discussion: **SENATOR GROSFIELD** explained the amendments he had written addressing Page 2, Line 23 striking the word "affidavit" and inserting the words, "acknowledged statement." He further stated that on Page 2, Line 24 he struck a sentence regarding a death certificate and added, "the acknowledged statement must include a legal description of the real property."

Motion/Vote: **SENATOR GROSFIELD MOVED TO ADOPT THE AMENDMENTS.** The motion **CARRIED UNANIMOUSLY** on an oral vote.

Motion/Vote: **SENATOR GROSFIELD MOVED THAT SB 272 DO PASS AS AMENDED.** The motion **CARRIED UNANIMOUSLY** on an oral vote.

EXECUTIVE ACTION ON SB 37

Discussion: **CHAIRMAN CRIPPEN** asked **Mr. Gianoulias** about the language on Section 1, Subsection 1. He questioned when the tolling start on the seriously mental illness provision?

Mr. Gianoulias stated that the bill was not intended to change that. He quoted a case called Bestwina. All this tried to do was eliminate the time extension for people incarcerated. The deletion of the word "minority" at the end was because it was not a disability, he said, but the tolling would still apply to a minor.

Motion/Vote: **SENATOR HALLIGAN MOVED THAT HB 37 BE CONCURRED IN.** The motion **CARRIED UNANIMOUSLY** on an oral vote.

EXECUTIVE ACTION ON HB 108

Discussion: There was discussion about the fiscal note, where the money comes from, and that the judge may recommend treatment.

SENATOR HALLIGAN said he had clients that had to fight with the judges over treatment issues. He thought the bill was far more structured that it at first appeared.

SENATOR BAER was concerned about duplication in the drug and alcohol programs.

SENATOR HALLIGAN read and determined that this bill would only apply to misdemeanor charges and sentencing would not include any treatment or assessment.

SENATOR ESTRADA said she was concerned about the costs of the program.

SENATOR NELSON commented that the committee should bear in mind that other people will pay the costs for those who are unable to pay and others will pay the insurance costs for those who are unable to pay.

Motion/Vote: **SENATOR HALLIGAN MOVED THAT HB 108 BE CONCURRED IN.** The **MOTION CARRIED** by oral vote with **SENS. NELSON AND ESTRADA** voting "no."

SENATE STANDING COMMITTEE REPORT

February 2, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 108 (third reading copy -- blue), respectfully report that HB 108 be concurred in.

Signed: _____
Senator Bruce Crippen, Chair

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

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